

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

For the

DISTRICT OF NEW MEXICO

CLERK-ALBUQUERQUE

Mr. Teddy Randall Mitchell,

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Plaintiff

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Civil Action No: 1:15-cv-178-LH-KK

V.

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HIBU INC,

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Defendant

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AFFIDAVIT OF TEDDY MITCHELL FORMER HIBU INC EMPLOYEE

Teddy Mitchell, being duly sworn upon his oath, on April 15, 2015 and states as follows:

1. I am over the age of eighteen, actually 43 year old, and I am competent to testify to all the matters set forth herein and will testify in this case before the court on my own behalf.
2. I am married to Deeja Youngquist and we reside at 8100 Barstow ST NE APT 8202, Albuquerque, NM 87122. We have lived at the same residence since October 1, 2011. I am an Honorably Discharged US Army Sergeant (Veteran of the War on Terror), who received commendations and medals during the US War on Terror from 2001-2006. During my military career in the US Army, my character and leadership were seen as having elements of both

integrity and honor that has been evaluated by General Officers and Command Sergeant Majors to be "beyond reproach". These NCOER(s), evaluations, with this factual description can be provided to the court.

3. On or about August 27, 2014, while doing a ride along in my personal vehicle (which the State of New Mexico has an "extended domain" law, which means that a person's vehicle including motorcycles, bicycles and while riding a horse is considered an extension of their home), Christian Bates was asked by me why Dacia Trainer's website was allowed under the ethical policies and standards of HIBU INC, and he made the following statement, "We have recently laxed the ethical policies when it comes to websites," then restated it later in the conversation in saying, "again, we have recently laxed the ethical policies in regards to websites." Mr. Bates in my car said that the ethical polices were relaxed regarding websites several times but could not remember these statements when asked about them at a later date.

4. On or about August 28, 2014, I sent an email to Steve Deyo stating clearly that I was documenting Christian Bates comment the previous day as, "We have recently laxed the ethical policies when it comes to websites." This email was sent to Michael Purcell, Simon Hanauer, and Cynthia Sheridan as well. Steve Deyon on November 13, 2014, while interviewing me pursuant to my formal complaint filed against Mr. Christian Bates with Hibu Inc HR read me the email I sent to him on or about August 28, 2014 and therefore corroborated my notification to him, an HR manager that Christian Bates had in fact stated the "he as a manger had decided to relax the ethical policies of the Defendant Company."

5. November 12, 2014, I was given a written performance notice, even though my overall performance had increased over 4.3% from the previous write up and I was working a volume of

accounts that was 2.5 times greater than that of the other sales rep at the time who was working revenue accounts. Not to mention I earned a new business bonus of over \$300 for the 4th quarter of 2014, yet have not been paid pursuant to NM Law. During the counseling on the phone where Christian Bates, Michael Purcell, Steve Deyo from HR, and I were on the call, I asked Christian Bates if he made this statement on or about August 27, 2014 in my vehicle (or my home as it is an extension of my home) and Mr. Bates denied it absolutely, thus directly lying to the entire group during an internal investigation. Mr. Bates even said that managers have no authority over ethical policies and standards – completely in contradiction of his statement representing the Defendant company on or about August 27, 2014 which was immediately documented (email sent August 28, 2014) to Michael Purcell, Steve Deyo of HR, Simon Hanauer, and Cynthia Sheridan on the very day that Mr. Bates made this ignorant and unprofessional statement.

6. November 13, 2014, I spoke with Steve Deyo and asked to file a formal complaint against Regional Director for HIBU INC Christian Bates, this was done on a Thursday in a 54 phone conversation – not on a Friday for 2 hours as stated directly to me on January 20, 2015 by Angie Corcoran (she obviously was misinformed as I have phone records to prove what I am saying is true), Mr. Deyo's supervisor. Steve Deyo had to end the call early and said he would give me 2 more hours of time the following week or just after the Thanksgiving Holiday. Mr. Deyo never emailed or called me to set up such an additional meeting and I emailed him 4 times asking him when the next meeting would be. I did get a response until December 14, 2014.

7. On December 19, 2014, I was called by Steve Deyo and the Regional Vice President John Foley and told the following by a memo:

“This letter is in response to concerns you shared with Human Resources in November 2014. Your concerns were in regards to behavior/actions by your Regional Director, Christian Bates.

As a Company we take every complaint seriously. Therefore, the Human Resources Department conducted a thorough investigation. Based on the information discovered during our investigation, we have taken appropriate remedial action. We appreciate you bringing your concerns to our attention.” This to me was they understood that Christian Bates was unprofessional, talked to Kerry Cummins regarding confidential information, and was guilty of lying in a Hibu investigation (Plaintiff exhibit D).

8. On January 20, 2014, I was told by Christian Bates to call into a toll free number with a code to “go over my performance from 2014 year end” by Mr. Christian Bates. My performance had increased more than 12% since the very first write up in July 2014 and I was the first person in company history asked to work the entire Gallup, NM and entire Grants, NM markets –all of the accounts 125 account roughly in 16 weeks. Nobody has done this and nobody will do this moving forward. I brought these guys over \$180k on \$14,000 in income with expenses not reimbursed pursuant to the hand shake agreement with John Foley in May 2011. None of the write ups over the year had any performance plan to goals to achieve in order to keep my job, just the words – performance to plan. This was a completely dishonest statement sent by Mr. Christian Bates. The phone call was on a recorded line and I was not informed it was being recorded for one and two it was my termination notice for allegedly nonperformance by Mr. John Foley, Regional Vice President of Sales. How does a sale rep get fired for nonperformance when he earned a performance bonus the previous quarter?

9. On or about July 7, 2014, Christian Bates yelled at me directly and pointed a closed fist towards my face during a training meeting simply because I stated facts of which he was unaware and unable to comprehend at the time. Cythia Sheridan, Michael Purcell, and Leon Cisneros have all confirmed with me that this indeed happened as I have stated here. I am meeting after the Initial Scheduling Conference on June 1, 2015 with both Simon and Cyndie (Cynthia Sheridan) to get their Affidavits signed and discuss joining the case, since neither was paid the correct amount or in the timely manner required by New Mexico Law when they departed Hibu Inc in 2014.

10. Christian Bates on July 8, 2015 made the following statement in a training meeting that I witnessed: "I'll take the blame on this one. We put muzzles on your mouths and shackles on your legs. We have to change that." This has been confirmed by Cynthia Sheridan, a former Hibu Inc employee before this affidavit is submitted. This is interesting as Mr. Bates take the blame for causing production to be slowed by his own actions for March, April, May, June, and July 2014 – four to five months, yet he can terminate people for performance issues when he realizes he made rules of engagement mistakes for over 4 months (1/3 of the year).

11. Steve Deyo was first contacted by me in late May or early June the 2014 (first email to HR) regarding Daica Trainer's potential unethical activity. Ironically, she left the company (Hibu Inc) in February 2015 and today her site is still up selling websites for her, but not through Hibu Inc, the exact reason this was always against Ethical Policies (<http://buildawebsiteabq.com>). From this time it was the beginning of Christian Bates' creation of a hostile work environment, so much so that two employees resigned positions when they had earned bonuses that their resignations cost them not to get paid, Simon Hanauer in June 2014 and Cyndie Sheridan in

September 2014 (with a \$6,000 year's end bonus just waiting for her in February 2015 if she had not resigned).

12. During every single visit to New Mexico, Christian Bates stated clearly that Albuquerque and New Mexico were just like Eagle Pass, TX and this was completely and utterly ridiculous. This showed how Christian had no clue of New Mexico or the geographical layout putting Albuquerque more than 4.25 hours from the Mexico border. Eagle Pass is a border city with Mexico in Texas. I heard Mr. Bates call us similar to Eagle Pass, TX on over 40 occasions at the least.

13. These comparisons with Eagle Pass, TX was part of the belittling and bullying process that Mr. Bates used to make all the sales reps in New Mexico feel less competent and less intelligent by this form of intimidation - by being compared to sales reps from San Antonio, TX (an economy rated 14th by Forbes Magazine in the US) and Austin, TX (Actually #1 by Forbes with Albuquerque not in the top 200), two of the top rated (top 15) economies in the United States when Albuquerque is not in the top 200. This belittling by Mr. Bates and constant comparison to a border town in Texas were literally over the top then the pressure and objectives which were the same as San Antonio and Austin, yet our salaries were lower than those two markets. Mr. Bates actually was a walking contradiction, as how can one had Albuquerque be compared to Eagle Pass, TX and then have the same production expectations of San Antonio, TX. This was a common daily issue with Mr. Bates from March through Jan 20, 2015.

14. In 20013-2014, HIBU INC employed Carol Baker as a Santa Fe, NM sales representative. Carol Baker stated clearly in a sales meeting in January 2014 at the Courtyard Marriott in Santa Fe, NM that she would not drive outside of Santa Fe, NM for her job (refusing

to work NM). She was paid the same expense rate that I was of \$9,050 per year as a part of her compensation and she was not asked to drive more than 5,000 miles per year, when I was expected to drive 20,000-22,500 miles per year working travel market like Gallup, NM, which as a market spans more than 4 hours from my home in Albuquerque, NM (includes clients in Farmington, NM and distribution goes almost to Flagstaff, AZ). Not to mention the work expectation rose in 2014 with me as the only rep working Western NM, thus I was paid less and asked to do more and this can be proven as purposefully executed by Christian Bates and John Foley.

15. During this same conversation at the Courtyard Marriott in Santa Fe, NM, Michael Purcell reminded Carol Baker that she was to work on some Santa Fe Yellow Book print client's renewals, and she point blank (to which several other former employee will also sign an affidavit), "I am not working with those accounts, Michael, this is not why I took this job." This was direct insubordination and Michael Purcell helped her make 2 sales later that day because the management culture at HIBU INC always preferred to help and grow the careers of female employees over male employees, especially female employees like Carol Baker who were simply not qualified for the Hibu position and should never have been hired in the first place.

16. Before Carol Baker in Santa Fe, NM, HIBU INC had Benjamin Cox in 2012-2013, Ben was given the same amount of compensation for expense to cover driving and maintaining a vehicle as well as a cell phone as I was but never asked to leave Santa Fe, NM for any reason, the same as Carol Baker above. At the time Ben was working for HIBU INC, I worked the Gallup, NM and Grants, NM markets for HIBU INC while Ben paid the same expense rate would fax clients in Espanola rather than drive to Espanola to meet with the clients – part of his

territory. How can a company say that my expenses are the same as a Santa Fe only rep, when there is an expectation of 15,000 more miles of driving for me?

17. During Carol Baker's employment at HIBU INC in 2014 (Jan-June), Michael Purcell, the local manager and Christian Bates, the regional director did everything for her in Santa Fe, NM that she possibly could need. On an average week, Michael Purcell was (as she never at any point learned how to enter and order in the system and never made 1 sale without Management's help during, before, and after the sale) spending over 2-3 days a week on average in Santa Fe, NM helping Carol, to do her job that she was paid to do. The Defendant talks about good business practices and Carol Baker as well as Ben Cox cost Hibu Inc more in 2 years than they made for the company, something that never happened with my employment. I always produced multiplicative dollars based on my income.

18. In the 4th quarter of 2012 (December in Gallup, NM), Michael Purcell favoring Melissa Greene (who was threatening to quit her job) took 2 new sales I was working that were actually entered on my pipeline - away from me to give them to Melissa. The pipeline was a list of accounts we were in the process of working with and I had been to the business 3 times prior to Michael taking the 2 sales away from me. This cost me a \$1,000 bonus. Further he gave Melissa Green Albuquerque Plumbing in 2013 in Albuquerque, who at the time purchase a \$12,000 monthly online marketing program including SEO, SEM, and Display advertising, and Melissa never even attempted to get this digital business. I was a senior rep (CSC) at the time and a client of this size was given to Melissa Greene, who was a junior rep (CSR). The company policy dictated as well as other accounts given to Leon Cisneros, that I in fact should have been given this account. This instance cost me over \$9,464.40 in commissions and was directly reverse discrimination by management ordered by John Foley against me. An email regarding this was

sent to HIBU INC HR in December 2012 with absolutely no response. I no longer have access to this email. This email should be provided by the Defendant.

19. During 2012, I sold a new client, Will Ferguson and Associates to a \$28,000 annual deal and have continued to grow that revenue to HIBU INC with this client in 2013 and 2014. Nathan Sanchez (CSC rep in 2012) felt that Will Ferguson, whom he had never spoken to directly was his lead. Michael Purcell found out I had an in with Mr. Ferguson (a love for fast cars) and sent me over to get the sale. In 2 days the sale was made, as the ink was drying on the sold contract, the direct reverse age and natural origin began with favoritism for Nathan Sanchez an under 40 Hispanic male with a huge ego who would have quite if he was told he was not better than me at the job and he simply was not in any manner. I can prove that Nathan Sanchez committed fraud, signed contracts for clients and lied about products to clients as in 2013 I took over more than 40% of his former accounts and the lies were grand. This was the sales rep favored by John Foley heavily in 2011 and 2012.

20. In 2012, I was 40 years old and Nathan Sanchez was 36-37 years old.

21. In 2012, I was and am of European Natural Origin and Nathan Sanchez was and is of Mexican Natural Origin ethnically.

22. After I made the sale to Will Ferguson and Associates that Nathan Sanchez could not have made at anytime because he lacked the skill set to speak with attorneys intelligently, HIBU INC - Yellow Book at the time, under the guidance from John Foley gave Nathan Sanchez all the free stuff that should have come with me making the biggest new sale made in the last 4 years in New Mexico for HIBU INC. Nathan was given \$40,000 in refusal save and only beat me for

President's Club 2014 because of this free stuff he was given by Regional Vice President John Foley in a direct form of reverse discrimination against me.

23. Refusal save are accounts that do not count against your objective or against your responsibility (typically we all had to bring back a 7% increase on what the client was spending the previous year to be at objective), yet refusal save accounts are a plus on your overall objective and raise your overall performance. Revenue (existing client renewals) accounts were paid at the time at 6% commission, increases on revenue clients was paid at 9%, and new sales were paid at 12% commission – literally twice the revenue commission rate – refusal saves were paid at the new sales rate of 12% at the time. This \$40,000 received by Nathan Sanchez was ordered and approved by John Foley and was direct reverse discrimination against me, thus giving Nathan President's Club 2012 over me and paying Nathan off for the sale I made at an additional \$2,400 that Nathan never earned (the extra 6% for refusal save over revenue accounts), he just cried about what I did and John Foley gave him President's Club 2012, as John Foley did not want to be seen as racist against Hispanic males.

24. Each year like many sales organizations, HIBU INC or Yellow Book in 2012 has a year's long sales contest called President's Club and there is typically qualification and requirement that can knock out a person otherwise, the winner is decided in each region by a points system and overall % to plan for the year. In 2012, I received \$9,380 in refusal save and Nathan Sanchez well over \$42,000 in refusal save. This was taken away from me purposefully and given by management to a younger Hispanic male, whom Mr. Foley often spoke to via telephone and I was told I could not contact via phone because Michael Purcell was our local manager. John Foley has always played favorites with Hispanic males in New Mexico to literally show he is not racist. These numbers are in the possession of the Defendant Company.

25. Ironically, in 2013 Nathan Sanchez quit in March 2013 because he was at 55% to plan for the year at that point (I was pacing over 90% at that time) and signed two fraudulent accounts in Santa Fe, NM – which I can prove by signed documents in the possession currently of HIBU INC. Upon his resignation, I asked John Foley and Michael Purcell if the President's Club 2013 trip would fall to me since it was so close and I was told no, so our region was not given the honor of a 2012 President's Club winner because Nathan Sanchez quit, when I was the only other person in the region who was qualified overcoming all the possible knockout factors (116.3% Overall to Plan for 2012 and a \$5,600 yearend bonus). This was like insult to injury to me at the time and I considered strongly resigning my positions or taking legal action for the reverse discrimination. At this time, Michael Purcell told me he was submitting me for promotion to CSC (Client Services Consultant) which was about \$6,000 annual in a pay raise, so I did not resign or seek legal action as I was going to be rewarded for this great year, 2012.

26. Michael Purcell was terminated by HIBU INC on 02 Jan 2015. Michael was behind on his quotas as a manager – lower % to plan than I was at as a sales representative at the time, yet Michael was given a nice severance package and paid for the entire month of December 2014 even though Michael was told on or about December 4, 2014 that he had a choice to be let go or to stay and work as a sales representative at a decrease of \$20,000 in base pay. Michael was required to state his option to Mr. Bates on Monday December 8, 2014. Michael told all of us in the Albuquerque office on Monday at the team meeting that he would be resigning not taking the sales position.

27. Michael Purcell told me that last week of the year before he was let go on 02 JAN 15 that John Foley had told Michael that moving forward Yellow Book renewals for print would now be done by auto renewal with price increases if telephone sales could not renew all the clients. This

policy has never been executed on a single print or print bundle client, so this would be a first and not an expectation the clients can see coming in any way. I felt and still today feel that this is directly consumer fraud.

28. Dacia Trainer told me on or about February 6, 2015, that she had told Christian Bates that she was taking another job with a printing company, which offered her better base and better all around compensation plan. Dacia Trainer had lost the help of Michael Purcell and her production was decreasing. In her conversation with me, she stated clearly that the fulfillment issues with the HIBU websites alone was the reason she had even started looking for a new job. She also told me that Michael was so helpful to her that he often handled issues with the websites department while she was in the field selling websites. Thus, I would contend strongly that her success was due to her manager favoring her and working as her administrative assistant.

29. From the time Carol Baker resigned until Michel Purcell's departure, Michael spend more the 75% of his time with Dacia Trainer (a 27-29 year old Mexican Passport holder), 14% of this time with Leon Cisneros, and less than 2% of his time with me as the only sales person for the company in Grants, NM and Gallup, NM. Michael came out to Gallup once in October and once in November and not at all once he was told he was being laid off on 02 JAN 15.

30. Christian Bates in my car in Gallup, NM during his October trip to New Mexico told me that Bobby Willmington and Parker Thomas could make digital sales in Gallup, NM because they were better at my job than I am at my job. This constant comparisons to sales people who work two of the best economies in the US per Forbes Magazine 2014 and 2015 best economies in the US, was part of the hostile work environment and retaliation against me by Christian Bates

do to my original inquiry into the HIBU INC website being used by Dacia Trainer in late May or early June 2014.

30. In November 2013, Simon Hanauer (left Hibu in June 2014) and I asked Mr. Purcell if we could build a HIBU INC website and use it to sell digital products. We also talked about doing a promo with the SEM program the company was currently offering. Simon and I were told in separate conversations from Michael Purcell that this was against the company's ethical policy. This exactly why I asked HR if doing my own website with the company's product was against the ethical policies? Mr. Bates seemed to enjoy degrade me by telling me that the guys working in Disney Land (San Antonio, TX) for sales people were better than I was as my job, he just embarrassed himself for making ignorant statements and showed he was a sales training, not a sales rep or field sales manager in any manner whatsoever.

31. In August 2014 prior to Mr. Bates visit, I met with Leon Cisneros, currently the only sales representative for Hibu Inc in New Mexico that I am aware of, and he introduced me to one of his friends, who had previously worked at Yellow Book before the name change to Hibu back in 2007, when Mathew Beck was managing New Mexico. This statement goes directly to the elite attitude and culture of the managers at Hibu Inc. Leon and his friend then told me about a female employee named Kristin Krantz. Apparently back in 2006-2007 this former employee saw Mr. Mathew Beck (now a Regional Vice President for Hibu Inc on the West Coast – same position as John Foley), leaving Kristin's room at 8 am in the clothing he had worn to dinner the night before and this former employee reported this in 2007 to HR. As the story goes, this employee still speaks with Kristin Krantz and several years later in 2012 apparently she told him that Matt Beck actually threatened to physically hurt her if she told anyone they were in a sexual

relationship. Matt and Kristen were both married at the time and Matt was the manager, she was the subordinate.

32. I did get Kristin Krantz's contact information and should be able to get her to testify under oath as to the scum like culture of the managers in Hibu Inc. I did tell Mr. Bates about this issue on or about August 27, 2014 in my vehicle while driving on Montgomery Blvd NE and Mr. Bates laughed about it. Apparently he felt it was a joke or just some rumor, yet I have uncovered 3 witnesses to this issue many years later. Matthew Beck is again currently a Hibu Inc Regional Vice President of Sales and a person who has committed adultery and yet approved to be promoted a few times since 2007 by Defendant Company. I believe this to be true and do not know why Mr. Beck was not fired in 2007.

33. I could not believe that Mr. Bates laughed at the claim that a Regional Vice President has threatened or potentially threatened to hurt a female employee if she was to tell anyone about their sexual relationship. This is the culture and the shocking nature that is Mr. Bates. Mr. Bates did not mention this to anyone else as he laughed about it and found humor in a very serious situation, just common unprofessional behavior.

34. Kerry Cummins is the media specialist that is supposed to work with everyone in Mr. Bates region to help maximize the total dollars and create sales opportunities in the digital advertising space (Digital Display advertising, Search Engine Optimization, SEO, Search Engine Marketing, SEM, and website enhancement or replacement). We were told to take a few large clients in June 2014 and send the website and as much information as we had and Kerry would help us with information that would help us to get appointments for the products mentioned above. Kerry almost never returned a phone call or email when I worked with her unless she felt

it was a sale and I got the appointments she went to with me - she did absolutely nothing to help me get appointments. She really helped me with 3 sales and that was it – none of them would have been made if it were not for my relationship with the clients – she did not earn the paycheck as she did very little and get's paid very well.

35. In June 2014, on her first visit to New Mexico, the very first thing that Kerry Cummins said to me upon picking her up to take her with me to see a client was why was I going to quit my job. I had only had contact with her previously via email. I now know that this question was because Christian had shared with her that he was going to have to write me up for performance in July 2014 (which he told her 3 weeks before the write up). The question was prematurely and none of her business as she was not in my management chain of command yet she proceeded to ask me inappropriate question after inappropriate questions and ironically she defines inappropriate behavior. How she has a job when she likes to talk so much about her lesbian daughter is beyond my comprehension. By the way I never asked her daughter's sexual preference, yet she freely decided to tell us all in a meeting at the Marriot Pyramid in Albuquerque in front of Christian Bates. (Kerry Cummins to me = inappropriate defined)

36. Kerry shared with me that Michael Purcell was not nice to her and that all male managers often treat her with contempt – inappropriate for work and business again and again. Kerry did not dress professional and she often gave clients partial truths about products as she was like a used car sales persons, giving the positives but never a negative and was really dishonest when clients asked deeper questions.

37. In June 2012, when I was out of town as a volunteer for a youth organization, John Foley visited New Mexico and was to take those above plan at the time to Paul's Monterey, a pricy

steak restaurant themed from the 1980s. I only heard this later from Leon Cisneros as at the time there were 6 reps in New Mexico with only myself, Nathan Sanchez, and Leon Cisneros qualified to go to dinner with John Foley per John's conditions. I was never given payment or compensation for the rain check both Michael Purcell and John Foley promised me. However, Nathan Sanchez on the company credit card authorized user, John Foley, had 2 full surf and turf, lobster and steak meals as well as over \$100 from the bar. This was how much John Foley liked to impress Nathan Sanchez. Nathan's tab alone was over \$200 and I was never given the rain check that was promised.

38. John Foley told me in May 2011 that all my expenses for travel markets were covered, all of them. This was one of the conditions and consideration that led me to take the position at Yellow Book which later became Hibu Inc. John Foley interviewed me after Michael Purcell during my initial interview with the company. Today, I know this was John Foley selling me a job and a direct lie from John Foley.

39. Actually, I found out in September 2011 that this was literally only \$25 per day and the gas was on me as my expenses were the same as sales people who were not asked to work Grants, NM and Gallup, NM. I would have potentially taken a position with another company in 2011 had Mr. Foley not been dishonest with me regarding the expenses not being fully covered.

40. Yellow Book/Hibu Inc at no time from May 2011 to January 2015 covered all my expense for the travel markets. In 2014, I was paid \$9,050 in expenses to cover my vehicle and fuel as well as \$25 per night for each night I was out of town for Hibu. Per my 2014 Tax Return being submitted to the IRS, my income was \$51,200 and the expenses \$25,216 associated with

my employment at Hibu Inc. I can produce similar numbers in 2011, 2012, and 2013 per my IRS Tax filings.

41. Being lied to about the compensation for employment or not told the whole truth before being hired by a Regional Vice President who tells you clearly all expenses are covered is literally the definition of employment fraud committed by John Foley.

42. Christian Bates in late March or early April 2014 lied to me about the Hibu Inc compensation plan on numerous occasions. In our first one on one meeting to discuss the comp plan, Mr. Bates told me I would make just as much in 2014 as I made in 2013. I asked him, what do you think I made in 2013? He then said I have no idea but you can make the same in 2014. So as my Regional Manager he did not have a clue what I made in 2013 – it was actually \$81,000 which based on the 2014 plan was not possible in the markets in which I was working in 2014 as the commissions were reduced from 5% to 3.5% on revenue accounts and refusal save was reduced to 3.5% not the 12% it had been previously. Mr. Bates sat in the lobby of the Marriot Pyramid hotel in either later March or early April 2014 and lied to me to my face regarding the comp plan.

43. During the very same meeting in early 2014, Christian Bates told me that I had a book of business of \$700,000. It was actually \$480,000 at the time (Defendant's documents can confirm this amount), but he did the math showing \$700,000 and he had no idea that the base was \$31,000 plus \$9,050 in expenses. Mr. Bates also told me that both my position AM- Account Manager and BDR – Business Development Representative were paid the same base salary, when I already knew from Michael Purcell that the AM's were getting \$31,000 and the BDR folks were getting \$33,000. The lies about compensation from Christian Bates flowed like a

river. There were so many lies, I cannot remember them all. Simon and Cyndie will testify by affidavit that this is all factual and that Christian lied to them as well.

44. Christian Bates main conversation outside of our day to day grind was the San Antonio Spurs Championship basketball team. I took no offense to this as I could care less about the NBA. Yet Christian with a straight fact would tell me on over 25 occasions that San Antonio was not a richer market than Albuquerque, NM, yet San Antonio supported a 2.5 Billion dollar basketball team. There is absolutely no way there markets should have been competing against one another on a sales performance report and any decent business person could tell you this quite frankly. Again, hiding behind smart business does not work as an argument as the dynamic in NM is quite different from Texas and the comparisons to a NBA Championship Team market are just STUPID at best.

45. Christian Bates did leave us waiting in June 2014 at a restaurant because he was taking a free tour by following a Breaking Bad Tour bus to the filming sites during the work day, the second half of the day. Mr. Bates was suppose to be riding that day with Simon Hanauer who had waited 2 hours early in the day for Christian to show up to ride with Simon. Simon had been counseled by Mr. Bates, thus the ride along was to counsel and show Simon how to do his job. First, Mr. Bates never had the skill set to be a successful sales person in New Mexico in any manner, second Christian Bates doing tourism when he had a sales rep he was to instruct waiting for him, as unprofessional as it gets and should again be ground for Mr. Bates termination.

46. Every time I saw Christian in New Mexico he seemed to be on some type of vacation, staying at the priciest Marriott Property in town and made us drive him around in our vehicle when in fact he had a rental car on the company's dime.

47. I would like to retain the right to submit further affidavits in this case if in fact the Defendant ever mounts any type of defense that will have to be disputed.

48. The defendant's compensation plans, which the Plaintiff signed 2 different plans in 2014, yet both plans contain this very language here:

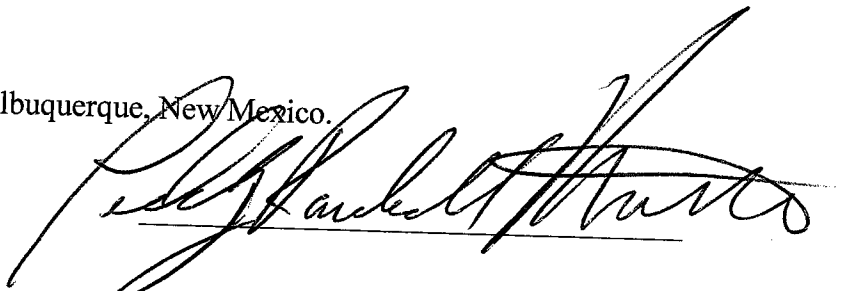
"G. Termination of Employment, that Commissions will be held for a period of six month following termination of employment (*except in those instances where earlier payment is required by applicable law*)."

The Defendant also wants to strike a copy of the compensation plan that they refer to as the reason for not complying with New Mexico Law (also below). The facts are the facts herein and "except in those instances where earlier payment is require by applicable law" is a reality in this case. I will not be the only one looking for money based on the Defendant's ignorance of the New Mexico Law pursuant to final paycheck when terminated or resigning.

49. The applicable state law in this case is as follows: New Mexico Statute 50-4-4 Discharges [Discharged] employees. A. Whenever an employer discharges an employee, the unpaid wages or compensation of such employee, if a fixed and definite amount, and not based on a task, piece, commission basis or other method of calculation, shall, upon demand become due immediately, and the employer shall pay such wages to the employee within five days of such discharge. B. In all other cases of discharged employees the settlement and payment of wages or compensation shall be made within ten days of such discharge. C. In case of failure to pay wages or compensation due an employee within the time herein before fixed, the wages and compensation of the employee shall continue from the date of discharge until paid at the same rate the employee received at the time of discharge, and may be recovered in a civil action brought by the

employee; provided that the employee shall not be entitled to recover any wages or compensation for any period subsequent to the date of discharge unless he pleads in his complaint and establishes that he made demand within a reasonable time upon his employer at the place designated for payment and payment was refused, provided further that the employee shall not be entitled to recover any wages or compensation for any period subsequent to the sixtieth day after the date of discharge.

DATED this 15th day of April 2015, in Albuquerque, New Mexico.



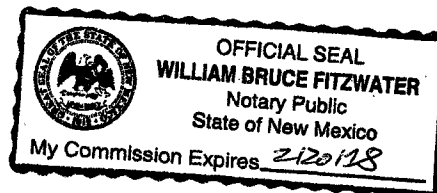
Teddy Randall Mitchell

SUBSCRIBED AND SWORN before me this 15th day of April 2015 by Teddy Randall Mitchell



Notary Public

My Commission Expires 2/20/18



CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of May 27; 2015 that I filed the attached document with the Clerk's Office in person, so that the court can post this to the ECS system for the Defendant legal team to receive electronically (the very same day).

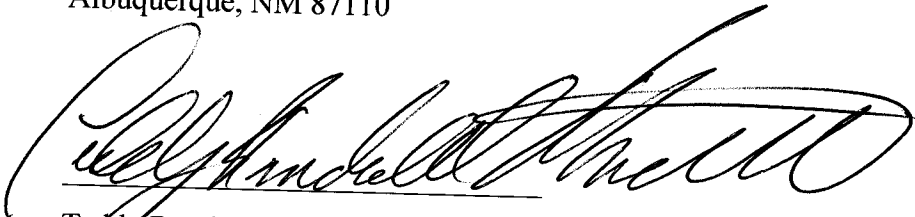
I hereby certify that on May 27, 2015, I served the all these documents by U.S. Mail Priority Post on:

Charlotte Lamont

LITTLER MENDELSON, P.C.

6565 Americas Parkway NE, STE 200

Albuquerque, NM 87110

A handwritten signature in black ink, appearing to read "Teddy Randall Mitchell", written over a horizontal line.

Teddy Randall Mitchell, *pro se*

8100 Barstow NE APT 8202

Albuquerque, NM 87122